

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**CIVIL NO. 3:98CV394**

**CALVIN R. LUCKEY, and wife PEGGY )  
G. LUCKEY; THEODORE BALLARD, )  
JR.; FLOYD J. BOWMAN; WILLIE J. )  
BURT, JR.; CLEMENT KEENE, and )  
wif BARBARA JO DEATHERAGE )  
KEENE; JUDY HORNE MARTIN, )  
Individually and as Executrix of the )  
Estate of Ray E. Martin, Deceased; )  
GENE A. SHIRES, and wife HELEN )  
SHIRES; JACKSON J. SMITH, and )  
wife CAROLYN S. SMITH; JOHN )  
WESLEY SMITH, and wife BETTY M. )  
SMITH; ROGER FRANKLIN THOMAS, )  
and wife ELLA SHINN THOMAS; )  
DONNIE BAILEY; HAZEL S. BOONE, )  
Individually and as Executrix of the )  
Estate of Billy H. Boone, Deceased; )  
RAYMOND L. MOORE; HAZEL B. )  
MULLIS, Individually and as )  
Executrix of the Estate of Jerry R. )  
Mullis, Deceased; JIMMY W. NEAL, )  
SR., and wife DOREEN K. NEAL; )  
JOHN A. NOBLE, III, and wife )  
WENDY ROBIN HASTINGS NOBLE; )  
J. AUBREY SAUNDERS, and wife )  
GEORGIA SMITH SAUNDERS; )  
ROGER D. SMITH, and wife MARGIE )  
P. SMITH; WILLIAM E. SMITH; )  
WALTER D. THOMPSON; RONNER )  
BYERS, and wife FRANCES W. )  
BYERS; RICHARD ALLEN JONES, )  
and wife JUDY ANN FINK JONES; )**

TONY E. ROGERS, and wife )  
 PATRICIA LaDONNE C. ROGERS; )  
 KENNETH G. SMITH, and wife )  
 MARGARET SMITH; DAVID R. )  
 TURNER; DAVID R. WHITESIDE, SR., )  
 and wife LINDA L. WHITESIDE; )  
 VICTOR E. YOUNT; SYLVIA L. )  
 JOHNSON, Executrix of the Estate of )  
 Clarence Luckey, Sr., Deceased; )

**Vs.**

**ORDER**

A. W. CHESTERTON, INC.; )  
 CLEAVER BROOKS; CROWN CORK )  
 & SEAL COMPANY, INC.; FOSTER )  
 WHEELER CORPORATION; )  
 GEORGIA-PACIFIC CORPORATION; )  
 NORTH BROTHERS, INC.; )  
 OWENS-ILLINOIS, INC.; RAPID )  
 AMERICAN CORPORATION; D. B. )  
 RILEY CORPORATION, f/k/a Riley )  
 Stoker Corporation, and CBS )  
 CORPORATION, f/k/a Westinghouse, )

**Defendants.**

**THIS MATTER** is before the Court on receipt of the parties'  
 responses to the Court's December 15, 2006, Order.

In November 2005 the cases of Plaintiffs Calvin and Peggy Luckey,  
 Hazel Boone, Individually and as Executrix of the Estate of Billy Boone,  
 Hazel Mullis, Individually and as Executrix of the Estate of Jerry Mullis,

Jackson and Carolyn Smith, and Roger and Margie Smith were scheduled for trial. Likewise, Plaintiffs Gene and Helen Shires, William Smith, and Roger and Ella Thomas were scheduled for trial in October 2006. Before each trial term, Plaintiffs' counsel advised that the claims of these Plaintiffs were settled and no trial was necessary.

In response to the Court's December 15, 2006, Order, Plaintiffs' counsel advises that "releases, settlement funds and/or proposed motions to dismiss" have not been received from some of the Defendants involved with these Plaintiffs. **Plaintiffs' Response, filed December 22, 2006, at 2.** Additionally, Plaintiffs' counsel advises that the claims of all Plaintiffs have been settled as to Defendants Georgia Pacific Corporation, Riley Stoker Corporation, Owens-Illinois, Inc., and CBS Corporation, but no "releases, settlement funds and/or proposed motions to dismiss" have been received from these Defendants to date. ***Id.* at 4.**

**IT IS, THEREFORE, ORDERED** that the Defendants listed above, as well as those sued by the Plaintiffs Luckey, Boone, Mullis, Jackson Smith, Roger Smith, Shires, William Smith, and Thomas, take immediate action to complete settlement of the claims herein on or before 30 days from entry of

this Order or these Defendants will be added to the trial calendar for the April 2007 term.

**IT IS FURTHER ORDERED** that Plaintiffs' counsel advise the Court after the 30-day period has expired of any remaining Plaintiffs whose claims remain unresolved as outlined herein so that the April 2007 trial calendar may be adjusted accordingly.

Signed: January 12, 2007

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

